

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

"METHOD AND APPARATUS FOR AUTOMATED DEMAND TREND CORRECTION IN DYNAMIC PRICING"

the specification of which

 X is attached hereto.
 was filed on _____ as
United States Application Number _____,
or PCT International Application Number _____,
and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 (copy attached).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), on any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>	
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<u>Yes</u>	<u>No</u>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<u>Yes</u>	<u>No</u>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<u>Yes</u>	<u>No</u>

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below

_____ (Application Number)	_____ (Filing Date)
_____ (Application Number)	_____ (Filing Date)

[illegible]

<u>(Application Number)</u>	<u>(Filing Date)</u>	<u>(Status - patented, pending, abandoned)</u>
-----------------------------	----------------------	--

Post Office Address _____

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit No.: Not Yet Assigned

Zumel, et al.

Examiner: Not Yet Assigned

Serial No.: Not Yet Assigned

Filed on: Not Yet Filed

For: METHOD AND APPARATUS FOR AUTOMATED
DEMAND TREND CORRECTION IN DYNAMIC
PRICING

POWER OF ATTORNEY
AND REVOCATION OF PREVIOUS POWERS

Commissioner for Patents
Washington, D.C. 20231

Sir:

Optivo Corporation, a California corporation having a place of business at 1005 Elwell Court, Palo Alto, California 94303, certifies that to the best of its knowledge and belief it is the assignee or is entitled to ownership of the entire right, title, and interest in and to the above-referenced patent application by virtue of an Assignment filed concurrently herewith and represents that the undersigned is a representative authorized and empowered to sign on behalf of Optivo Corporation, which hereby revokes all powers of attorney previously given and appoints the following attorney(s) and/or agent(s): Edward A. Becker, Reg. No. 37,777; Marcel K. Bingham, Reg. No. 42,327; Carl L. Brandt, Reg. No. 44,555; Brian D. Hickman, Reg. No. 35,894; Craig G. Holmes, Reg. No. 44,770; Christopher J. Palermo, Reg. No. 42,056; Carina M. Tan, Reg. No. 45,769; Craig G. Holmes, Reg. No. 44,770 and Bobby K. Truong, Reg. No. 37,499 all of

HICKMAN PALERMO TRUONG & BECKER LLP
1600 Willow Street
San Jose, California 95125-5106

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. Send all future correspondence to

the attention of Brian D. Hickman, Reg. No. 35,894, care of the above address and direct all telephone calls to the same at (408) 414-1080.

Assignee of Interest:

Optivo Corporation

Dated: 11/28/00

By: 

Name: ROBERT DRISCOLLER

Title: PRESIDENT & CEO

Address of Assignee of Interest:

Optivo Corporation

1005 Elwell Court

Palo Alto, California 94303

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: 11/29/00

By: 

Name: Brian D. Hickman

Reg. No.: 35,894

1600 Willow Street
San Jose, California 95125-5106
Telephone: (408) 414-1080
Facsimile: (408) 414-1076